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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,520	09/12/2000	Jeffry Jovan Philyaw	PHLY-25.355	6222
25883	7590	11/30/2005		
HOWISON & ARNOTT, L.L.P P.O. BOX 741715 DALLAS, TX 75374-1715			EXAMINER NGUYEN, PHUOC H	
			ART UNIT	PAPER NUMBER

2143

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/659,520	Applicant(s) PHILYAW, JEFFRY JOVAN	
	Examiner Phuoc H. Nguyen	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on September 27, 2005. Previous office action contained claims 1-26. Applicant amended claim 1. Amendment filed on September 27, 2005 have been entered and made of record. Therefore, pending claims 1-26 is presented for further consideration and examination.

Response to Arguments

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Priority

3. This application is a CIP of 09/614,937 (07/11/2000), which is a CIP of 09/378,221 (08/19/1999) U.S. Patent 6,745,234, which is a CIP of 09/151,471 (09/11/1998) Abandoned, which is a CIP of 09/151,530 (09/11/1998) U.S. Patent 6,098,106.

The effective filing data for the subject matter defined in the pending claims, which has support in parent 09/378,221 (08/19/1999) U.S. Patent 6,745,234 in this application, is 08/19/1999. Any new subject matter defined in the claims not previously disclosed in parent 09/378,221 (08/19/1999) U.S. Patent 6,745,234 is entitled to the effective filing date of 07/12/2000.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-26 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16, 18-33, and 35 of copending Application 09/614,937. Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the claimed invention is the same as the context of the cited claims of the U.S. copending Application.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley et al. (Hereafter, Buckley) U.S. Patent 6,446,871 in view of Schmitt et al. (Hereafter, Schmitt) U.S. Patent 6,359,711.

8. Referring to claims 1, and 14, Buckley reference disclose providing a triggering device (Figure 5, scanning implement (16)) having a unique code (Fig. 5, scan code (102)) associated therewith, the unique code associated with a remote location (Fig. 5, portal server (208)) on a network (Fig. 5, internet (106)) of the source of the web page (Fig. 5, content provider (214, or 216)); transmitting the unique code from the triggering device to an interface system (Fig. 5, ASCII string (200) from scanning device to client pc port (202)), the interface system disposed on the network at a triggering location (Fig. 5, from client pc (104) to internet (106)); retrieving location information associated with the unique code from a database, the location information corresponding to the location of the web page at the remote location on the network (Fig. 9, col. 11, lines 18-26 (map barcode with dB supported by content provider (214))); in response to retrieving the location information, connecting the interface system to the remote location, and presenting the web page corresponding to the location information of the remote location to the

Art Unit: 2143

user via the interface system (col. 11, lines 6-26); however, Buckley reference fail to teach the triggering device having a unique code that uniquely identifies the triggering device and the unique code having no location information therein.

Schmitt teaches the triggering device having a unique code that uniquely identifies the triggering device and the unique code having no location information therein (Abstract; Figure 14; col. 2 lines 51-60; col. 3 lines 7-18, lines 53-57).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Schmitt's teaching into Berkley's method to include a portable triggering device of a user having a unique code associated therewith in order to eliminate the cumbersome scanner because the triggering device would communicate with the interface system. In addition, the portable triggering device would prevent the users through the inconvenience of locating and manipulating the reader or scanner system (Schmitt, col. 2 lines 61 through col. 3 lines 3; and col. 12 lines 4-55).

9. Referring to claims 2, and 15, Buckley reference discloses the triggering device in the step of providing is a portable wireless transponder (Fig. 5, infrared or radio frequency port (202), col. 5, lines 49-55; and col. 7, lines 20-35).

10. Referring to claims 3, and 16, Buckley reference discloses the transponder has the unique code stored therein in a non-volatile memory (col. 6, lines 14-15; and col. 6, lines 62-64).

11. Referring to claims 4, and 17, Buckley reference discloses the unique code in the step of providing is uniquely associated with the web page (col. 8, lines 60 through col. 9, lines 7).

12. Referring to claims 5, and 18, Buckley reference disclose the interface system in the step of transmitting comprises a receiver operatively connected to a computer, the receiver for

Art Unit: 2143

receiving a triggering signal having the unique code contained therein (Fig. 5, serial/IR/USB (202)).

13. Referring to claims 6, and 19, Buckley reference discloses the user manually enables the triggering device to transmit the unique code in the step of triggering (col. 9, lines 65 through col. 10, lines 6).

14. Referring to claims 7, and 20, Buckley reference disclose the step of retrieving location information further comprises the step of matching the unique code with the location information of the database (col. 10, lines 32-39).

15. Referring to claims 8, and 21, Buckley reference discloses the database in the step of retrieving is local to the interface system (Figures 4, and 5).

16. Referring to claims 9, and 22, Buckley reference disclose the database in the step of retrieving is located at an intermediary location on the network (col. 10, lines 31-35; Fig. 4, content databases 114,116, and 118)

17. Referring to claims 10, and 23, Buckley reference disclose the step of retrieving location information from the intermediary location further comprises the step of appending to the unique code routing information which defines the location of the intermediary location on the network such that: the unique code is transmitted to the intermediary location in accordance with the appended routing information (col. 10, lines 32-39).

18. Referring to claims 11, and 24, Buckley reference disclose the step of connecting is performed using a browser program (col. 10, lines 8-12).

Art Unit: 2143

19. Referring to claims 12, and 25, Buckley reference discloses the steps of retrieving, connecting and displaying are performed automatically in response to the step of transmitting (Fig. 4; col. 10, lines 32-39).

20. Referring to claims 13, and 26, Buckley reference disclose the step of presenting comprises displaying the web page to the user via a display operatively connected to the interface system (Fig. 9; col. 11, lines 6-26).

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kupka et al. U.S. Pub. : 2003/0221113

Carroll et al. U.S. Patent 6,859,699

Cole et al. U.S. Patent 6,359,711

Laursen et al. U.S. Pub. : 2004/0229595

Russell et al U.S. Patent 5,905,248

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 571-272-3919.

The examiner can normally be reached on Monday - Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H Nguyen
Examiner
Art Unit 2143

November 23, 2005


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100